**IN THE HIGH COURT OF JUDICATURE**
**AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**MISC. PETITION NO.8 OF 2007**

Mohammed Mohsin Abdul Aziz ...Petitioner

Mr. Rafiq Peermohidin i/b. M/s. Pravin Mehta
& Mithi & Co for Petitioner

**CORAM: SMT. ROSHAN DALVI, J.**
**DATED: 20TH MARCH, 2007**

**P.C.**

1. The Petitioners are the Trustees as well as the beneficiaries of a property purchased pursuant to an earlier High Court order passed under a Deed of Wakf-ul-Aulad initially executed on 30th October, 1853.

2. In 1962 the Petitioners applied for consent of this High Court as the concerned Judicial Authority to allow them to lease a plot of land. As per the provisions of the Transfer Deed dated 30th October, 1853 the order came to be passed on 26th April, 1962 in Misc. Petition No.180 of 1962 by the Court in the matter of the Deed of Wakf-ul-Aulad dated 30th October, 1853. A plot of land bearing Plot No.6 of Town

Planning Scheme III Bandra CTS No.F/862 of City Survey, Pali Danda Road, Bandra came to be leased and a building came to be constructed. That building is now stated to be dilapidated.

3. The Petitioners have relied upon, issued letters dated 25th April, 2005, 30th July, 2005 and 3rd June, 2006 on the tenants calling upon the Petitioners to carry out immediate repairs and/or reconstruction. The Petitioners have obtained the report of their Architects showing that their property on CTS No.F-862 City Survey, Pali Danda Road, Bandra(West), Mumbai is in a dilapidated condition and is beyond repairs and is required to be demolished. The Petitioners have also relied upon the photographs of the said building. The Attorneys of the Petitioners identify the photographs **Exhibit-F** as the photographs of the flats in the suit building. A list of tenants is annexed as **Annexure-A** to the surrender of Leasehold Rights executed on 9th February, 2007. Hence, the following order is passed :

**O R D E R**

1. The agreement for Surrender of Leasehold Rights/Sale Deed dated 9t February, 2007 executed by and between the Petitioners and the owner of the plot to sell the suit building is sanctioned subject to the tenancy rights of all the tenants in the Suit

Building.

2. The Petitioner is Mutawali of the Deed of Wakf dated 18th October, 1853 is authorised to execute the Deed of Surrender of Lease and the Conveyance of the building in favour of the owners or their nominees, but, subject to the tenancy rights of the tenants of the suit building.

3. The Petitioner is also authorised to invest the sale proceeds received from the sale of the suit property in another immovable property so as to keep the same corpus of the said trust of 1853.

4. The Petitioner shall be entitled to execute all the documents to that end.

5. The Petition is accordingly made absolute in terms of prayer clauses (a),(b),(c) and (d).

**(SMT.ROSHAN DALVI, J.)**